

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation  
Against:

**ELY ZASLOW, M.D.**

Physician's and Surgeon's  
Certificate No. C 52963

Respondent

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) File No. 16-2008-195973  
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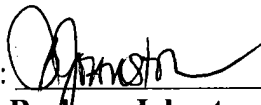
**DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **July 21, 2009**.

IT IS SO ORDERED **July 14, 2009**.

MEDICAL BOARD OF CALIFORNIA

By:   
\_\_\_\_\_  
**Barbara Johnston**  
Executive Director

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 SUSAN K. MEADOWS  
Deputy Attorney General  
4 State Bar No. 115092  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5552  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 16-2008-195973

13 **ELY DAVID ZASLOW, M.D.**  
14 **128 Hawk Ridge**  
**Ashville, NC 28804**

OAH No. 2009030158

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate**  
16 **No. C 52963**

17 Respondent.

18  
19 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California Department of Consumer  
21 Affairs, ("Board") the parties hereby agree to the following Stipulated Surrender of License and  
22 Order which will be submitted to the Board for approval and adoption as the final disposition of  
23 the Accusation.

24 **PARTIES**

25 1. Barbara Johnston (Complainant) is the Executive Director of the Board. She brought  
26 this action solely in her official capacity and is represented in this matter by Edmund G. Brown  
27 Jr., Attorney General of the State of California, by Susan K. Meadows, Deputy Attorney General.

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1           2.     Ely David Zaslow, M.D. (Respondent) is represented in this proceeding by attorney  
2     Tasha E. Agruso, Esquire, Sharpless Stavola, 200 South Elm Street, Suite 400, Greensboro, NC,  
3     27420.

3. On or about August 10, 2007, the Medical Board of California issued Physician's and Surgeon's Certificate No. C 52963 to Ely David Zaslow, M.D. (Respondent). The certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 16-2008-195973. This certificate is delinquent with an expiration date of February 28, 2009.

**8 JURISDICTION**

4. Accusation No. 16-2008-195973 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 16-2008-195973 is attached as Exhibit A and incorporated herein by reference. The facts underlying this Stipulated Surrender of License and Order ("Stipulation") are summarized in the Consent Order entered by the North Carolina Medical Board in Exhibit A to the Accusation.

16 ADVISEMENT AND WAIVERS

17           5.     Respondent has carefully read, fully discussed with counsel, and understands the  
18 charges and allegations in Accusation No. 16-2008-195973. Respondent also has carefully read,  
19 fully discussed with counsel, and understands the effects of this Stipulation.

20 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
21 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
22 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
23 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
24 the attendance of witnesses and the production of documents; the right to reconsideration and  
25 court review of an adverse decision; and all other rights accorded by the California  
26 Administrative Procedure Act and other applicable laws.

27           7.   Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
28   every right set forth above.

**CULPABILITY**

8. Respondent has elected to voluntarily surrender his license due to the fact that the license has expired, he has never resided or practiced medicine in California, and does not intend to do so in the future. Respondent resides in and practices exclusively in North Carolina. Respondent agrees that at an administrative hearing, Complainant could establish that cause exists to impose discipline against his California medical license under sections 141 and 2305 of the Business and Professions Code.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order and decision accepting the surrender of his Physician's and Surgeon's Certificate without further process.

**RESERVATION**

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

**CONTINGENCY**

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this Stipulation, without notice to or participation by respondent or his counsel. By signing this Stipulation, respondent understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and Order, the Stipulation shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 52963, issued to Respondent Ely David Zaslow, M.D. is surrendered and accepted by the Board.

14. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

16. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

17. Respondent shall cause to be delivered to the Board both his wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

18. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 16-2008-195973 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

19. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 16-2008-195973 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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**ACCEPTANCE**


I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney. I understand the Stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED:

5-28-09  
ELY DAVID ZASLOW, M.D., Respondent

I have read and fully discussed with Respondent Ely David Zaslow, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

5-29-09  
TASHA E. AGRUSO, ESQUIRE  
SHARPLESS STAVOLA  
Attorneys for Respondent**ENDORSEMENT**

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by Board.

Dated:

Respectfully Submitted,

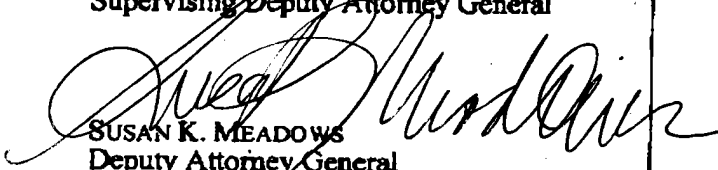
EDMUND G. BROWN JR.  
Attorney General of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General  
SUSAN K. MEADOWS  
Deputy Attorney General  
Attorneys for Complainant

Exhibit A: Accusation

**EXHIBIT A**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Feb 2, 2009  
BY Brenda Allen ANALYST

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 SUSAN K. MEADOWS, State Bar No. 115092  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5552  
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 16-2008-195973

13 **Ely David Zaslow, M.D.**  
128 Hawk Ridge  
Asheville, North Carolina, 28804

**ACCUSATION**

14 Address of Record

15 Physician's and Surgeon's Certificate  
No. C 52963

16  
17 Respondent.

18  
19 The Complainant alleges:

20 **PARTIES**

21 1. Complainant, Barbara Johnston, is the Executive Director of the Medical  
22 Board of California (hereinafter the "Board") and brings this accusation solely in her official  
23 capacity.

24 2. On or about August 10, 2007, Physician's and Surgeon's Certificate No. C  
25 52963 was issued by the Board to Ely David Zaslow, M.D. (hereinafter "respondent"). This  
26 certificate is renewed and current with an expiration date of February 28, 2009.

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### JURISDICTION

3. This accusation is brought before the Medical Board of California under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring if probation is imposed.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein."

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

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1                   4.       Respondent is subject to discipline within the meaning of section 2305  
2 and/or section 141 of the Code as more particularly set forth herein below.

3                                   **FIRST CAUSE FOR DISCIPLINE**

4                   (Discipline, Restriction, or Limitation Imposed by Another State)

5                   5.       On or about July 18, 2008, the North Carolina Medical Board issued a  
6 Consent Order whereby respondent's medical license was suspended for 30 days, with said  
7 suspension stayed upon the following probationary terms and conditions: 1) respondent shall  
8 comply with the North Carolina Medical Board's Position Statements entitled "Writing of  
9 Prescriptions" and "Contact with Patients before Prescribing"; 2) respondent shall complete a  
10 CME course in the area of prescription writing; 3) respondent shall not prescribe medication for  
11 any person without first physically examining said person, unless such prescription is consistent  
12 with the Position Statement entitled "Contact with Patients before Prescribing"; and, 4)  
13 respondent shall not split fees with a business corporation. The basis for this action was that  
14 during 2007, the North Carolina Medical Board found that respondent, an independent  
15 contractor, engaged in unprofessional conduct as he provided medical service through Secure  
16 Telemedicine, a Florida based business corporation and CallMD, a Texas based business  
17 corporation, to patients located in North Carolina. Respondent prescribed medications via  
18 telephone conferences, including prescribing controlled substances to patients without first  
19 performing any physical examinations and without any prior physician/patient relationships. In  
20 addition, Secure Telemedicine and CallMD billed patients for medical services rendered by  
21 respondent with a portion of the fees collected used to pay respondent's compensation/consulting  
22 fees. As Secure Telemedicine and CallMD rendered medical care in the State of North Carolina,  
23 they engaged in the unauthorized practice of medicine. Respondent engaged in unprofessional  
24 conduct as he assisted in the unauthorized practice of medicine by working for Telemedicine and  
25 CallMD, and by splitting fees with both of these business corporations.

26                   6.       Attached hereto as Exhibit A, and made a part hereof, is a true and correct  
27 copy of the Consent Order issued by the North Carolina Medical Board.

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7. The action by the North Carolina Medical Board regarding respondent's license to practice medicine, as set forth above, constitutes unprofessional conduct and/or grounds for disciplinary action within the meaning of section 2305 of the Code and/or section 141(a) of the Code. Therefore, cause for discipline exists.

## PRAAYER

**WHEREFORE**, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number  
C 52963 heretofore issued to respondent, Ely David Zaslow, M.D.;

2. Ordering respondent to pay the Board the costs of probation monitoring upon order of the Board; and,

3. Revoking, suspending or denying approval of the respondent's authority to supervise physician assistants; and,

4. Taking such other and further action as the Board deems necessary and proper.

DATED: February 2, 2009

**BARBARA JOHNSTON**  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

Complainant

Exhibit A: North Carolina Medical Board Consent Order

**EXHIBIT A**

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:

Ely D. Zaslow, M.D.,

Respondent.

)  
)  
) CONSENT ORDER  
)  
)  
)

This matter is before the North Carolina Medical Board (hereinafter Board) regarding information that Ely David Zaslow, M.D., (hereafter Dr. Zaslow) issued a limited number of prescriptions to patients without first performing a physical exam. Dr. Zaslow admits and the Board finds and concludes, the following:

Whereas the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes, and

Whereas Dr. Zaslow is a physician first licensed by the Board on December 2, 1986, license No. 30885, and

Whereas during the times relevant herein, Dr. Zaslow practiced medicine in North Carolina, and

Whereas in or about May 2007, Dr. Zaslow, as an independent contractor, provided medical services for a period of three days through Secure Telemedicine, a business corporation located in Miami, Florida that renders medical services in North Carolina,

including prescriptions, via telephone conferences between physicians and patients, and

Whereas Dr. Zaslow issued a limited number of prescriptions over a three day period only, including a few prescriptions for controlled substances, for patients without a physical examination and without any prior physician-patient relationship between Dr. Zaslow and the patients that might have permitted, depending on good medical practice, issuing a prescription without a physical examination, and

Whereas Dr. Zaslow also denied prescriptions over this three day period to patients seeking medication, referred patients to the Emergency Department or to other providers, issued prescriptions only for chronic conditions for which the patients had prior prescriptions through their primary or other care providers, and Dr. Zaslow did evaluate the patients' presenting set of symptoms through a telephone conference to determine the source of the problem and the need for a particular drug, and

Whereas because of his reliance on certain representations made by Secure Telemedicine, Dr. Zaslow believed that a telephone patient evaluation and subsequent prescriptions were consistent with the Board's position, and professional standards generally, and

Whereas Dr. Zaslow ceased his participation with Secure Telemedicine by his own initiative after a three day period, over Secure Telemedicine's objection, and without any contact or threat of discipline by the Board, and

Whereas during May 2007, Secure Telemedicine billed patients for medical services rendered by Dr. Zaslow, and a portion of the fees collected from such patients was used to pay Dr. Zaslow's compensation in a total amount not exceeding \$250.00 while the remainder was used to pay other expenses of Secure Telemedicine, and

Whereas during May 2007, Secure Telemedicine, through Dr. Zaslow, rendered medical care in North Carolina to patients, and, thus, Secure Telemedicine engaged in the unauthorized practice of medicine, and

Whereas, Dr. Zaslow, as an independent contractor, provided medical services through CallMD, a business corporation located in Frisco, TX that renders medical services, including prescriptions, via telephone conferences between physicians and patients, for a limited number of patients, and

Whereas as an independent contractor for CallMD, Dr. Zaslow issued prescriptions for a limited number of patients, without a physical examination and without any prior physician-patient relationship between Dr. Zaslow and the patients that might have

permitted, depending on good medical practice, issuing a prescription without a physical examination, and

Whereas Dr. Zaslow also denied prescriptions to these patients, referred patients to the Emergency Department or to other providers, issued prescriptions only for non-controlled substances to treat chronic and non-acute conditions for which the patients had prior prescriptions through their primary or other care providers, and Dr. Zaslow did evaluate the patients' presenting set of symptoms through a telephone conference to determine the source of the problem and the need for a particular drug, and

Whereas because of his reliance on certain representations made by CallMD, Dr. Zaslow believed that a telephone patient evaluation and subsequent prescriptions were consistent with the Board's position, and professional standards generally, and

Whereas Dr. Zaslow has now ceased his participation with CallMD, and

Whereas CallMD billed patients for medical services rendered by Dr. Zaslow, and a portion of the fees collected from such patients was used to pay Dr. Zaslow a consulting fee in a total amount of less than \$200, while the remainder was used to pay other expenses of CallMD, and

Whereas CallMD, through Dr. Zaslow, rendered medical care to



patients in North Carolina, and, thus, CallMD engaged in the unauthorized practice of medicine, and

Whereas by prescribing medications to patients without a physical examination and in the absence of a prior physician-patient relationship, Dr. Zaslow engaged in unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and

Whereas by assisting in the unauthorized practice of medicine by Secure Telemedicine and CallMD, Dr. Zaslow engaged in unprofessional conduct, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and

Whereas by splitting with Secure Telemedicine and CallMD the fees he generated from practicing medicine, Dr. Zaslow engaged and is engaging in unprofessional conduct, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and

Whereas Dr. Zaslow acknowledges that he has an obligation to ensure that his medical practice, including but not limited to his prescribing practices, conforms to the accepted and prevailing standard of practice in North Carolina, and

Whereas Dr. Zaslow acknowledges he has read this entire document and understands it, and

Whereas Dr. Zaslow would like to resolve this matter without the need for more formal proceedings such that he enters into this consent order freely and voluntarily, and

Whereas Dr. Zaslow has enjoyed a full and unrestricted medical license since 1986 and no other complaints have been filed with the Board against him, and

Whereas Dr. Zaslow communicated openly and cooperated fully with the Board in its investigation of this matter, and

Whereas the Board has not found that Dr. Zaslow's conduct, as described above, resulted in harm to any patient, and

Whereas Dr. Zaslow understands that this Consent Order is subject to the approval of the Board and Dr. Zaslow agrees that he will not raise any objection or advance any argument that the Board or any of its members are disqualified from further participation in this case by reason of the review and consideration of this Consent Order, and

Whereas the Board determined it to be in the public interest to resolve this matter as set forth below;

NOW, THEREFORE, with Dr. Zaslow's consent, the Board enters the following Order:

1. Dr. Zaslow's license to practice medicine in North Carolina is SUSPENDED for thirty (30) days; however, such suspension is STAYED upon the following PROBATIONARY terms and conditions:

a. Dr. Zaslow shall strictly comply with the Board's Position Statements entitled "Writing of Prescriptions" and "Contact with Patients before Prescribing".

b. Within 12 (twelve) months of the date of this consent order, Dr. Zaslow shall attend a prescription writing continuing medical education course acceptable to the Board, and he shall provide proof of satisfactory completion of the course to the Investigations Department of the North Carolina Medical Board within thirty (30) days of completing the course.

c. Dr. Zaslow shall not prescribe medication for any person without first physically examining that person, unless such prescription is consistent with the Board's position statement titled "Contact with Patients before Prescribing".

d. Dr. Zaslow shall not split fees with a business corporation; that is, he shall not share fees generated from the practice of medicine with a business corporation on a percentage basis.

e. Dr. Zaslow shall obey all laws and all regulations related to the practice of medicine.

f. Dr. Zaslow shall notify the Board in writing of any change in his residence or practice addresses within 30 days of the change.

g. Dr. Zaslow shall appear before the Board as such times as requested by the Board.

2. If Dr. Zaslow fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to suspend or revoke his license, or to activate the stayed portion of the suspension, or to deny any application he might make in the future or then have pending for a license.

3. Dr. Zaslow hereby waives any requirement under any law or rule that this Consent Order be served on him.

4. Upon execution by Dr. Zaslow and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, the existence of this Consent Order will be reported to person, entities, agencies, and clearing houses, as required by law, including the Healthcare Integrity and Protection Data Bank.

5. No provision of this consent order shall constitute an admission by Dr. Zaslow for any purpose other than for this and any other proceedings before the North Carolina Medical Board, and shall not be admissible against Dr. Zaslow in any proceeding

outside of Board proceedings.

By order of the North Carolina Medical Board this the 18<sup>th</sup>  
day of JULY, 2008.

NORTH CAROLINA MEDICAL BOARD

By: *George L. Saunders, III*  
~~Janelle Rhyme, MD~~  
George L. Saunders, III, MD

Consented to this the 18<sup>th</sup> day of July, 2008.

*Ely D. Zaslow, M.D.*  
Ely D. Zaslow, M.D.

State of NORTH CAROLINA

WAKE County

I, WANDA A. LONG, a Notary Public for the  
above named County and State, do hereby certify that Ely D.  
Zaslow, M.D., personally appeared before me this day and  
acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

This the 18<sup>th</sup> day of July, 2008.

*Wanda A. Long*  
Notary Public  
(SEAL)

My Commission expires: 4-18-2010